

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Mar 17, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WHISPER C.,

Plaintiff,

v.

KILOLO KIJAKAZI,  
ACTING COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

No. 1:21-CV-03028-ACE

ORDER GRANTING  
PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT

ECF Nos. 18, 22

**BEFORE THE COURT** are cross-motions for summary judgment. ECF Nos. 18, 22. Attorney Chad Hatfield represents Whisper C. (Plaintiff); Special Assistant United States Attorney Ryan Lu represents the Commissioner of Social Security (Defendant). The parties have consented to proceed before a magistrate judge. ECF No. 4. After reviewing the administrative record and the briefs filed by the parties, the Court **GRANTS** Plaintiff's Motion for Summary Judgment and **DENIES** Defendant's Motion for Summary Judgment, and **REMANDS** the matter for further proceedings.

**JURISDICTION**

On April 15, 2013, Plaintiff was found to be disabled as of March 7, 2013. Tr. 65-72. On July 7, 2016, the Commissioner conducted a continuing disability review and determined that Plaintiff, then thirteen years old, was no longer disabled and therefore no longer eligible for Supplemental Security Income. Tr.

73, 75-78. Plaintiff's request for reconsideration of that determination was denied. Tr. 97-106. ALJ Prinsloo held a hearing on June 4, 2020, and issued an unfavorable decision on June 24, 2020. Tr. 20-33. The Appeals Council denied review on December 29, 2020. Tr. 1-6. Plaintiff appealed this final decision of the Commissioner on February 24, 2021. ECF No. 1.

### STANDARD OF REVIEW

The ALJ is responsible for determining credibility, resolving conflicts in medical testimony, and resolving ambiguities. *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). The ALJ's determinations of law are reviewed *de novo*, with deference to a reasonable interpretation of the applicable statutes. *McNatt v. Apfel*, 201 F.3d 1084, 1087 (9th Cir. 2000). The decision of the ALJ may be reversed only if it is not supported by substantial evidence or if it is based on legal error. *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial evidence is defined as being more than a mere scintilla, but less than a preponderance. *Id.* at 1098. Put another way, substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (quoting *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)). If the evidence is susceptible to more than one rational interpretation, the Court may not substitute its judgment for that of the ALJ. *Tackett*, 180 F.3d at 1098; *Morgan v. Comm'r of Soc. Sec. Admin.*, 169 F.3d 595, 599 (9th Cir. 1999). If substantial evidence supports the administrative findings, or if conflicting evidence supports a finding of either disability or non-disability, the ALJ's determination is conclusive. *Sprague v. Bowen*, 812 F.2d 1226, 1229-1230 (9th Cir. 1987). Nevertheless, a decision supported by substantial evidence will be set aside if the proper legal standards were not applied in weighing the evidence and making the decision. *Browner v. Sec'y of Health and Human Services*, 839 F.2d 432, 433 (9th Cir. 1988).

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## SEQUENTIAL EVALUATION PROCESS

A child is “disabled” for the purposes of receiving Supplemental Security Income benefits if she has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C. § 1382c(a)(3)(C)(i).

The Act requires the Commissioner to review a disabled child’s continued eligibility for benefits at least once every three years. *See* 42 U.S.C. § 1382c(a)(3)(H)(ii)(I). The Commissioner has established a three-step medical improvement sequential evaluation process for determining whether a child continues to be disabled within the meaning of the Act. 20 C.F.R. § 416.994a(b).

At step one, the inquiry is whether there has been medical improvement in the impairments that were present at the time of the most recent favorable determination or decision finding the child disabled (the most recent favorable determination is called the “comparison point decision” or “CPD,” and the impairments that were present at the CPD are called the “CPD impairments”). 20 C.F.R. § 416.994a(b)(1); SSR 05-03p. Medical improvement is any decrease in medical severity, except for minor changes. 20 C.F.R. § 416.994a(c). It must be based on changes in the symptoms, signs, or laboratory findings associated with the impairments. 20 C.F.R. § 416.994a(c). If there has been no medical improvement, the child is still disabled, unless one of the exceptions to medical improvement applies. 20 C.F.R. § 416.994a(b)(1). If there has been medical improvement, the inquiry proceeds to step two.

At step two, the inquiry is whether the CPD impairments still meet or medically or functionally equal the severity of the listed impairments that they met or equaled at the time of the CPD. *See* 20 C.F.R. § 416.994a(b)(2); SSR 05-03p. The question at step two is whether a claimant’s CPD impairments still functionally equal the listings. *See* 20 C.F.R. § 416.994a(b)(2); SSR 05-03p. If

1 the impairments still functionally equal the listings, the child is still disabled,  
2 unless one of the exceptions to medical improvement applies. 20 C.F.R. §  
3 416.994a(b)(2). If they do not, the inquiry proceeds to step three. 20 C.F.R. §  
4 416.994a(b)(2).

5 At step three, the inquiry is whether the child is currently disabled  
6 considering all current impairments, including those the child did not have at the  
7 time of the CPD and those that the Commissioner did not consider at that time. 20  
8 C.F.R. § 416.994a(b)(3). This first involves determining whether the child's new  
9 or unconsidered impairments are "severe" – meaning more than slight  
10 abnormalities that cause no more than minimal functional limitations. 20 C.F.R. §  
11 416.994a(b)(3)(i); 20 C.F.R. § 416.924(c). If the impairments are not severe, the  
12 child's disability has ended. 20 C.F.R. § 416.994a(b)(3)(i). If they are severe, the  
13 question is whether they meet or medically equal the listings in 20 C.F.R. Part 404,  
14 Subpart P, App'x 1. *See* 20 C.F.R. § 416.994a(b)(3)(ii). If they do, the child's  
15 disability continues. 20 C.F.R. § 416.994a(b)(3)(ii). If not, the question is whether  
16 they functionally equal the listings. 20 C.F.R. § 416.994a(b)(3)(iii). If they do, the  
17 child's disability continues. 20 C.F.R. § 416.994a(b)(3)(iii). If not, the child's  
18 disability has ended. 20 C.F.R. § 416.994a(b)(3)(iii).

19 Determining whether a child's impairments functionally equal the listings  
20 requires an assessment of the child's limitations in six broad areas of functioning,  
21 called "domains." 20 C.F.R. § 416.926a(b)(1). The six domains are: (1)  
22 "Acquiring and Using Information," (2) "Attending and Completing Tasks," (3)  
23 "Interacting and Relating with Others," (4) "Moving About and Manipulating  
24 Objects," (5) "Caring for Yourself," and (6) "Health and Physical Well-being." 20  
25 C.F.R. § 416.926a(b)(1)(i-vi). In making this assessment, the factfinder must  
26 compare how appropriately, effectively, and independently the impaired child  
27 performs activities compared to the performance of other children of the same age  
28 who do not have impairments. 20 C.F.R. § 416.926a(b).

1 The child's impairment or combination of impairments will be found to  
2 functionally equal the listings if the child has "marked" limitations in at least two  
3 of the domains or if the child has "extreme" limitations in any one of the six  
4 domains. 20 C.F.R. § 416.926a(d).

#### 5 **ADMINISTRATIVE FINDINGS**

6 The ALJ determined that Plaintiff had medically improved and was no  
7 longer under a disability as of July 7, 2016. Tr. 33.

8 With respect to Plaintiff's condition at the time of the CPD, the ALJ made  
9 the following findings:

10 The CPD was April 15, 2013. At that time, Plaintiff had the following  
11 medically determinable impairments: attention deficit hyperactive disorder  
12 (ADHD) and mood disorder. These impairments resulted in the following  
13 limitations: marked limitations attending/completing tasks, interacting with others,  
14 and caring for self. Because Plaintiff's impairments resulted in these limitations,  
15 her impairments were found to functionally equal the listings. Tr. 24.

16 With respect to the three-step medical improvement review standard, the  
17 ALJ made the following findings.

18 At step one, the ALJ found that there had been medical improvement in the  
19 impairments that were present at the time of the CPD (citing 20 C.F.R. §  
20 416.994a(c)). Tr. 24.

21 At step two, the ALJ found that Plaintiff's CPD impairments no longer  
22 functionally equaled the severity of the listed impairments (citing 20 C.F.R. §  
23 416.994a(b)(2); 20 C.F.R. § 416.926a; SSR 05-03p). Tr. 25.

24 At step three, the ALJ found that Plaintiff has the following severe  
25 impairments: posttraumatic stress disorder (PTSD) and depression. The ALJ found  
26 that Plaintiff's impairments neither meet/medically equals one of the listed  
27 impairments nor functionally equal the listings. Tr. 25 (citing 20 C.F.R. § 416.925;  
28 20 C.F.R. § 416.926; 20 C.F.R. § 416.924(d); 20 C.F.R. § 416.926a). Specifically,

1 the ALJ found Plaintiff has “less than marked” limitations in the domains of  
 2 acquiring and using information, attending and completing tasks, interacting with  
 3 others, caring for yourself, and no limitations in moving about and manipulating  
 4 objects and health and physical well-being. Tr. 29-33.

5 Because Plaintiff has not had an impairment or combination of impairments  
 6 resulting in either “marked” limitations in two domains of functioning or  
 7 “extreme” limitation in one domain of functioning, the ALJ found Plaintiff’s  
 8 disability ended as of July 7, 2016. Tr. 33.

### 9 ISSUES

10 The question presented is whether substantial evidence supports the ALJ’s  
 11 decision and, if so, whether that decision is based on proper legal standards.

12 Plaintiff raises the following issues for review: (A) whether the ALJ  
 13 properly evaluated the medical opinion evidence; and (B) whether the ALJ  
 14 properly evaluated the symptom allegation testimony. ECF No. 15 at 2.

### 15 DISCUSSION

#### 16 A. Medical Opinions

17 Because Plaintiff filed her application before March 27, 2017, the ALJ was  
 18 required to generally give a treating doctor’s opinion greater weight than an  
 19 examining doctor’s opinion, and an examining doctor’s opinion greater weight  
 20 than a non-examining doctor’s opinion. *Garrison v. Colvin*, 759 F.3d 995, 1012  
 21 (9th Cir. 2014). An ALJ may only reject the contradicted opinion of a treating or  
 22 examining doctor by giving “specific and legitimate” reasons. *Revels v. Berryhill*,  
 23 874 F.3d 648, 654 (9th Cir. 2017). An ALJ may reject the opinion of a  
 24 nonexamining physician by reference to specific evidence in the medical record.  
 25 *Sousa v. Callahan*, 143 F.3d 1240, 1244 (9th Cir. 1998) (citations omitted).  
 26 Plaintiff argues the ALJ misevaluated three medical opinions. ECF No. 15 at 11-  
 27 21.

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1                   **1. Nancy Winfrey, Ph.D**

2                   Dr. Winfrey testified at the hearing as a medical expert. The ALJ indicated  
3 Dr. Winfrey “opined [Plaintiff] met listings of 112.04 and 112.15” for Plaintiff’s  
4 PTSD and depression diagnoses and “had marked [limitations in] interaction and  
5 adaptation.” The ALJ gave Dr. Winfrey’s opinion “little weight.” Tr. 27.

6                   The ALJ first discounted Dr. Winfrey’s opinion on the ground the doctor  
7 “seemed to base her opinion largely on the evidence that supported the original  
8 award of benefits for the CPD.” Tr. 27. Substantial evidence does not support this  
9 finding. Dr. Winfrey plainly testified that she reviewed the longitudinal record,  
10 including “very helpful” treatment notes that “go right up pretty much to the  
11 present.” Tr. 53. Further, Dr. Winfrey’s Listings analysis fundamentally differed  
12 from that of the CPD, as it involved *different* impairments. Tr. 53-54; *compare* Tr.  
13 52 (Dr. Winfrey opining that Plaintiff has “active PTSD symptoms” and  
14 “significant depression”) *with* Tr. 66 (CPD stating ADHD is the sole impairment).  
15 Indeed, Dr. Winfrey testified “[Plaintiff’s] issues aren’t even primarily ADHD, and  
16 that’s not even a diagnosis in her treatment notes for the last two years.” Tr. 56-57.  
17 The ALJ accordingly erred by discounting the opinion on this ground. *See Reddick*  
18 *v. Chater*, 157 F.3d 715, 722-23 (9th Cir. 1998) (reversing ALJ’s decision where  
19 his “paraphrasing of record material is not entirely accurate regarding the content  
20 or tone of the record”).

21                   The ALJ next discounted Dr. Winfrey’s opinion as “at odds with the better-  
22 supported DDS reconsideration opinion.” Tr. 27. This reasoning is legally  
23 erroneous. An ALJ may not reject a medical opinion “with boilerplate language  
24 that fails to offer a substantive basis for” the ALJ’s conclusion. *Garrison*, 759  
25 F.3d at 1012-13 (citing *Nguyen v. Chater*, 100 F.3d 1462, 1464 (9th Cir. 1996)).  
26 Further, it is not the job of the reviewing court to comb the administrative record to  
27 find specific conflicts. *Burrell v. Colvin*, 775 F.3d 1133, 1138 (9th Cir. 2014).  
28 Resisting this conclusion, the Commissioner avers the Court may nevertheless

1 “draw reasonable inferences.” ECF No. 22 at 10. However, having reviewed the  
2 record, no reasonable inferences may be drawn from the ALJ’s assessment of the  
3 DDS reconsideration opinion that would firmly explain the basis for the ALJ’s  
4 rejection of Dr. Winfrey’s opinion. The Court may only affirm an ALJ’s decision  
5 based on the reasons actually given, “not *post hoc* rationalizations that attempt to  
6 intuit what the adjudicator may have been thinking.” *Bray v. Comm’r of Soc. Sec.*  
7 *Admin.*, 554 F.3d 1219, 1225-26 (9th Cir. 2009) (citing *SEC v. Chenery Corp.*, 332  
8 U.S. 194, 196 (1947)). The ALJ accordingly erred by discounting the opinion on  
9 this ground.

10 Finally, the ALJ discounted Dr. Winfrey’s opinion on the ground the doctor  
11 “failed to adequately assess the impact of noncompliance with and sporadic  
12 treatment, inconsistent medication use, and drug and alcohol issues.” Tr. 27. This  
13 finding is both conclusory and unsupported. The ALJ did not explain *how* Dr.  
14 Winfrey failed to conduct an “adequate[]” assessment or how this assessment  
15 undermines her opinion. *See Garrison*, 759 F.3d at 1012-13; *Burrell*, 775 F.3d at  
16 1138. Moreover, Dr. Winfrey squarely addressed Plaintiff’s drug and alcohol  
17 usage, treatment compliance, and medication usage. Dr. Winfrey testified that the  
18 “ongoing concern of substance use” “muddies the waters to some degree,” pointing  
19 to Plaintiff’s “alcohol and cannabis” usage. Tr. 53. Dr. Winfrey also spoke to  
20 Plaintiff’s compliance with treatment, assessing her as “compliant” and pointing to  
21 “very few no-shows, if any actually.”<sup>1</sup> Tr. 55. Finally, Dr. Winfrey noted Plaintiff  
22 had “issues” taking her ADHD medication, but assessed that issue “was resolved in  
23 the past two years.” Tr. 56. The ALJ accordingly erred by discounting the opinion  
24 on this ground.

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25  
26 <sup>1</sup> In any event, “it is a questionable practice to chastise one with a mental impairment for  
27 the exercise of poor judgment in seeking rehabilitation.” *Nguyen v. Chater*, 100 F.3d  
28 1462, 1465 (9th Cir. 1996) (quoting *Blankenship v. Bowen*, 874 F.2d 1116, 1124 (6th Cir.  
1989)).

1 The ALJ accordingly erred by discounting Dr. Winfrey's opinion.

2 **2. CeCilia Cooper, Ph.D**

3 Dr. Cooper examined Plaintiff on May 3, 2017, and opined, as relevant here:  
4 "[Plaintiff] has problems with depression and anxiety that result in strained  
5 relationships at home and a felt need, on her part, for more one on one assistance in  
6 school to facilitate learning. She appears to respond more favorably to that kind of  
7 help than to counseling or medication monitoring. She is seeking a transfer to an  
8 alternative school. She would probably be more comfortable in that type of setting  
9 because of the accommodations provided." Tr. 443.

10 The ALJ rejected Dr. Cooper's opinion regarding an alternative school,  
11 finding it "appears based on preference/subjective statements of the claimant rather  
12 than any necessity as the claimant has no IEP, has improvement in school, and the  
13 teacher questionnaire from that same year does not show such need." Tr. 28. The  
14 ALJ's finding lacks evidentiary support. As an initial matter, the teacher  
15 questionnaire indicates Plaintiff's involvement in at least three violent incidents, 93  
16 total absences across her classes during the 2016-2017 school year,<sup>2</sup> and largely  
17 worsening academic performance. Tr. 265, 268. Moreover, the record indicates  
18 Dr. Cooper's opinion was based on clinical observations and does not indicate Dr.  
19 Cooper found Plaintiff to be untruthful. Therefore, this is no evidentiary basis for  
20 rejecting the opinion. *Cf. Ryan v. Comm'r of Soc. Sec.*, 528 F.3d 1194, 1199-200  
21 (9th Cir. 2008) ("an ALJ does not provide clear and convincing reasons for  
22 rejecting an examining physician's opinion by questioning the credibility of the  
23 patient's complaints where the doctor does not discredit those complaints and  
24 supports his ultimate opinion with his own observations"); *Edlund v. Massanari*,

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25  
26 <sup>2</sup> Plaintiff's disciplinary history and attendance record stand in stark contrast to the ALJ's  
27 finding that her "school record shows no serious attendance problems and minimal social  
28 problems at school." Tr. 31. Indeed, the ALJ refers to these violent incidents as "minor  
disciplinary infractions[.]". Tr. 31.

1 253 F.3d 1152, 1159 (9th Cir. 2001). The ALJ accordingly erred by discounting  
2 Dr. Cooper's opinion.

### 3 **3. *Kristylynne Goveia, LICSW***

4 Ms. Goveia was Plaintiff's treating counselor during much of the relevant  
5 time period. In addition to a bevy of treatment notes, the record contains an initial  
6 mental health assessment conducted by Ms. Goveia prior to the commencement of  
7 Plaintiff's counseling sessions. As part of the initial assessment, performed on  
8 May 8, 2018, Ms. Goveia opined on the following "medical necessity": "[Plaintiff]  
9 qualifies for SED due to an impairment in functioning in the family, at school and  
10 with social interactions. [Plaintiff] is experiencing impairment in school work and  
11 has failing grades for more than the last 6 months. ... Treatment is deemed to be  
12 reasonably necessary to improve and stabilize the functional difficulties." Tr. 437.

13 Plaintiff argues the ALJ erred by failing to assess Ms. Goveia's opinion.  
14 The Commissioner counters that Ms. Goveia did not offer an opinion that speaks to  
15 functional limitations. Neither party is exactly right. As discussed below, the  
16 Court concludes the ALJ erred by failing to develop the record with respect to Ms.  
17 Goveia.

18 The Commissioner explains "SED" stands for "Severe Emotional  
19 Disturbance." ECF No. 15 at 17. While the Commissioner correctly observes that  
20 Plaintiff "has not offered any explanation of the term in her brief," ECF No. 15 at  
21 17, the Court notes the term appears in the Individuals with Disabilities Education  
22 (IDEA) Act's implementing regulations. *See* 34 C.F.R. § 300.8(c)(4). There it is  
23 defined as "a condition exhibiting one or more of the following characteristics over  
24 a long period of time and to a marked degree that adversely affects a child's  
25 educational performance: (A) An inability to learn that cannot be explained by  
26 intellectual, sensory, or health factors[;] (B) An inability to build or maintain  
27 satisfactory interpersonal relationships with peers and teachers[;] (C) Inappropriate  
28 types of behavior or feelings under normal circumstance[;] (D) A general pervasive

1 mood of unhappiness or depression[;] (E) A tendency to develop physical  
2 symptoms or fears associated with personal or school problems.” 34 C.F.R. §  
3 300.8(c)(4)(i). Although the term “SED” arises out of a different statutory scheme,  
4 it is evident the bases for an “SED” relate and are relevant to the “domains” of  
5 functioning. *Compare id. with* 20 C.F.R. § 416.926a(b)(1)(i-vi).

6 In light of Ms. Goveia’s specific use of term that speaks to functional  
7 limitations and her ensuing treating relationship with Plaintiff, the ALJ should  
8 have contacted Ms. Goveia to obtain a more fulsome medical source statement, lest  
9 potentially significant and probative evidence from the only treating provider be  
10 excluded from the record. *See Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th  
11 Cir. 2001) (“The ALJ in a social security case has an independent duty to fully and  
12 fairly develop the record and to assure that the claimant’s interests are  
13 considered.”) (internal quotation marks and citations omitted). Contrary to the  
14 Commissioner’s implicit assertion, *see* ECF No. 22 at 15, the Court cannot  
15 conclude that any error with respect to Ms. Goveia was harmless.

#### 16 **B. Symptom Allegation Testimony**

17 Plaintiff contends the ALJ erred by not properly assessing the symptom  
18 allegation testimony, as offered by Plaintiff’s mother at the hearing. ECF No. 15 at  
19 4-13. Where, as here, the ALJ determines a claimant has presented objective  
20 medical evidence establishing underlying impairments that could cause the  
21 symptoms alleged, and there is no affirmative evidence of malingering, the ALJ  
22 can only discount testimony as to symptom severity by providing “specific, clear,  
23 and convincing” reasons supported by substantial evidence. *Trevizo v. Berryhill*,  
24 871 F.3d 664, 678 (9th Cir. 2017). The Court concludes the ALJ failed to offer  
25 clear and convincing reasons to discount the symptom allegation testimony.

26 The ALJ discounted the symptom allegation testimony as inconsistent with  
27 the medical evidence. Tr. 724-25. However, because the ALJ erred by  
28 discounting two medical opinions and failing to develop the record with respect to

1 Plaintiff's treating counselor, and necessarily failed to properly evaluate the  
2 medical evidence, as discussed above, this is not a valid ground to discount  
3 Plaintiff's testimony. The ALJ accordingly erred by discounting the symptom  
4 allegation testimony.

### 5 SCOPE OF REMAND

6 This case must be remanded because the ALJ harmfully misevaluated the  
7 medical evidence and the symptom allegation testimony. Plaintiff contends the  
8 Court should remand for an immediate reinstatement of benefits. Such a remand  
9 should be granted only in a rare case and this is not such a case. Apart from  
10 developing the record with respect to Plaintiff's treating counselor, the medical  
11 opinions and the symptom allegation testimony must be reweighed and this is a  
12 function the Court cannot perform in the first instance on appeal. Further  
13 proceedings are thus not only helpful but necessary. *See Brown-Hunter v. Colvin*,  
14 806 F.3d 487, 495 (9th Cir. 2015) (noting a remand for an immediate award of  
15 benefits is an "extreme remedy," appropriate "only in 'rare circumstances'")  
16 (quoting *Treichler v. Comm'r of Soc. Sec. Admin.*, 775 F.3d 1090, 1099 (9th Cir.  
17 2014)).

18 On remand, the ALJ shall obtain an updated medical source statement from  
19 Ms. Goveia, reevaluate the medical opinion evidence and symptom allegation  
20 testimony, and reconsider the three-step sequential analysis.

### 21 CONCLUSION

22 Having reviewed the record and the ALJ's findings, the Commissioner's  
23 final decision is **REVERSED** and this case is **REMANDED** for further  
24 proceedings. Therefore, **IT IS HEREBY ORDERED:**

25 1. Plaintiff's Motion for Summary Judgment, **ECF No. 18**, is  
26 **GRANTED**.

27 2. Defendant's Motion for Summary Judgment, **ECF No. 22**, is  
28 **DENIED**.

1 The District Court Executive is directed to file this Order and provide a copy  
2 to counsel for Plaintiff and Defendant. Judgment shall be entered for Plaintiff and  
3 the file shall be **CLOSED**.

4 **IT IS SO ORDERED.**

5 DATED March 17, 2023.



*Alexander C. Ekstrom*

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE